

Internal Revenue Service

Department of the Treasury

**District
Director**

P.O. Box 1680, GPO Brooklyn, N.Y. 11202

Date: NOV 15 1984

Person to Contact:

Contact Telephone Number:

Refer Reply to:

CERTIFIED MAIL

Gentlemen:

We have considered your application for recognition of exemption under Section 501(c)(4) of the Internal Revenue Code of 1954.

The documents submitted indicate you were formed on [REDACTED] as a non-profit corporation under the [REDACTED] General Laws, Chapter [REDACTED]. Your purposes, stated briefly, are to operate and maintain, or provide for the operation and maintenance of, any common areas or facilities held by the condominium association for the benefit of the members, including repairs, additions, improvements or alterations to such areas of facilities, including the maintenance of the exterior of the town home building, and management of the condominium. Your membership consists of individuals who own a condominium at [REDACTED]. Your activities are to provide for the maintenance of the common areas and facilities, and the exterior of any unit and appurtenant structures, within the condominium.

Your income will consist entirely of equal monthly assessments from members for the aforementioned services, and your funds will be expended exclusively for maintenance services and related expenses. Any excess income will be set aside as a reserve fund for future maintenance such as resurfacing of paved areas, roof repair, or exterior painting.

Section 501(c)(4) of the Internal Revenue Code provides for the exemption from Federal income tax of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 501(c)(4)-1(a)(2) of the Income Tax Regulations states that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community.

Revenue Ruling 74-99, 1974-1 C.B. 131, provides that in order to qualify for exemption under Section 501(c)(4) of the Internal Revenue Code, a homeowner's association must serve a "community" which bears a reasonably recognizable relationship to an area ordinarily identified as governmental; it must not conduct activities directed to the exterior maintenance of private residences; and the common areas or facilities it owns and maintains must be for the use and enjoyment of the general public.

The concept of social welfare implies a service or program directed at benefitting the community rather than a private group of individuals.

Your organization operates essentially for the private economic benefit and convenience of the property owners by providing a service that your members would otherwise have to provide for themselves and increases the value of the individual property owner's condominium unit. Thus, it is not primarily engaged in activities for the common good and general welfare of the people of the community. Accordingly you do not qualify for exemption from Federal income tax under section 501(c)(4) of the Internal Revenue Code.

It appears that your organization may elect to file under section 528 to receive certain tax benefits which, in effect, permit the exclusion of exempt function income from gross income. The election to file under section 528 is to be made by filing Form 1120-H, U.S. Income Tax Return for Homeowners Associations. However, if you do not elect to file under section 528, you are required to file Federal Income Tax returns on Form 1120.

If you do not agree with this determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completions.

Sincerely yours,

/s/ [REDACTED]

District Director

Enclosure: Publication 892